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## EVALUATOR MANUAL TRANSMITTAL SHEET

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**Distribution:**

☐ All Child Care Evaluator Manual Holders  
☒ All Residential Care Evaluator Manual Holders  
☐ All Evaluator Manual Holders

**Transmittal No.**

10RM-06

**Date Issued**

February 2010

**Subject:**

Reference Material

Enforcement Actions - Revisions to sample letters regarding immediate exclusions from facilities

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**Reason for Change:**

Adding language to Section 1-1420

Amending Sections 1-0330, 1-1010, 1-1190, 1425, 1430, 1-1600 and 1-1818

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**Filing Instructions:**

REMOVE – Pages 35, 56, 109, 110, 111, 112, 113, 144, 158, 161, 164, 166,  
169 and 176

INSERT – Pages 35, 56, 109, 110, 111, 112, 113, 144, 158, 161, 164, 166,  
169 and 176

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**Approved:**

*ORIGINAL DOCUMENT SIGNED BY*  
*SETON BUNKER FOR THOMAS STAHL*

*2/26/10*

\_\_\_\_\_  
**THOMAS STAHL** Chief  
Policy Development Bureau  
Community Care Licensing Division

\_\_\_\_\_  
Date

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Contact Person: Seton BunkerPhone Number: (916) 324-4312

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**1-0330 COMPLIANCE PLAN CONFERENCE OFFICE  
PROCEDURES (Continued)****1-0330**

8. The Regional Manager sends the licensee a letter explaining the Department's desire to enter into a Compliance Plan in order to bring the facility into compliance and avoid taking administrative action. A copy of the draft Compliance Plan proposed by the Department may be sent with the letter. A meeting date and time are specified to review the file, go over the plan and obtain signatures. If the licensee does not wish to participate, the matter will be referred for administrative action.

There are two components to a Compliance Plan Conference: (1) The licensee reviews the facility file, (2) The licensee meets with the Regional Manager, Licensing Program Analyst and Licensing Program Manager to discuss the plan. In this meeting:

- Violations are reviewed.
- Corrective actions and time frames are developed and agreed upon.
- Consequences for failure to comply are reviewed.

Three copies of the plan are signed: One for the licensee, one for the facility's public file, one for the Statewide Program Office. Regional Offices will identify/flag the files of facilities, which have signed Compliance Plans in the same way legal cases are identified. A log will be maintained of all facilities with Compliance Plans. Licensing Program Analysts will flag all facilities with Compliance Plans on the problem facility log.

Periodic site visits may be conducted by the Licensing Program Analyst to ensure compliance. Violations of the conditions will be reviewed by the **Licensing Program Manager/Licensing Program Analyst** and a recommendation for amending, dissolving, or continuing the plan will be forwarded to the Regional Manager for decision. If dissolution is sought, administrative action will be initiated through the standard legal process and a letter of dissolution sent to the licensee with copies to the facility's file and Program Administrator.

**1-1010 ADMINISTRATIVE ACTION AND OTHER LEGAL OPTIONS****1-1010**

(Continued)

**1. Failure or Refusal to Cease Operation After TSO or Final Decision and Order Revoking License Has Been Served :**

If a facility continues to operate after a temporary suspension order or a final Decision and Order or a Stipulation and Order revoking the license has been served and has taken effect, contact the Licensing Attorney handling the case and/or the Licensing Office's assigned Legal Consultant immediately.

Operation after a Temporary Suspension Order or final order of revocation may be particularly compelling circumstances for the criminal prosecution approach, for two reasons: (1) It has been or can be proved that the facility is dangerous, and (2) The facility operator was already warned in writing that further operation is illegal, but chose to operate in defiance of the law.

Regional Office staff should follow referral procedures to Investigations Branch pertaining to unlicensed operations. Refer to Evaluator Manual, Enforcement Actions Section 1-0640 and Section 1-1190. Also see **Temporary Restraining Order**. A local Licensing Office should discuss with the Licensing Office's assigned Legal Consultant whether to ask a local prosecutor (district attorney, county counsel or city attorney) to seek an injunction against the facility. If this request is rejected, a Statement of Facts requesting an injunction should be prepared. The attorney assigned by the Legal Division will ask the Attorney General's office to seek the injunction. Contact the Licensing Office's assigned Legal Consultant regarding questions about injunctions. Regardless of the process used, further actions may result in facility closure and relocation of clients. If so, a Facility Closure Plan must be developed.

**Administrative Actions against Other Persons.** Administrative actions against persons who are not licensees, applicants or unlicensed facility operators are discussed in Evaluator Manual, Enforcement Actions Sections 1-1400 and following sections, Non-Licensee Administrative Actions. Employees are discussed in 1-1410, certified family home applicants and certificate of approval holders in 1-1430, and other adults in a facility in 1-1450.

**1-1020 EVIDENCE AND DOCUMENTATION****1-1020**

The Licensing Program Analyst gathers the evidence necessary to refer a case for administrative action. [See Evaluator Manual Reference Material Complaints Section 3-2615 – Definition and Sources of Evidence]. The evidence is presented to the Legal Division in the form of licensing documents, medical and police reports, photographs, tapes, etc. The section below contains a brief discussion of the kinds of evidence which, if available, should be gathered and presented with the Statement of Facts, which is discussed in Evaluator Manual, Enforcement Actions Sections 1-1100 and 1-1130.

**SAMPLE NOTIFICATION LETTER: CHILD CARE FACILITY TSO****(Date)**

Dear Child Care Parent:

The Department of Social Services, Community Care Licensing Division is responsible for licensing and monitoring family child care homes and child care centers. Our goal is to protect the health and safety of children who are receiving child care in another person's home or out of home care. When it is determined that there is an immediate health and safety risk to children, the Department has the authority to immediately close a child care home. This action is called a Temporary Suspension Order.

The Department has determined that there is an immediate risk to children in care at ABC Child Care Center at 200 Pine Ave, Orange Town, California, 95000. This is to inform you that a Temporary Suspension Order is being served today on March 9, 2000. This closure will be effective March 10, 2000.

Because the suspension order prohibits the ABC Child Care Center from operating after March 10, 2000, we have arranged to assist you in locating other care arrangements for your child. The Child Action Resource and Referral Agency is prepared to work with you over the next few days to find alternate child care that meets your needs. You may contact Susan Smith at 916- 300-0000 for assistance. She is prepared to take your call and work with you immediately.

We regret any distress or inconvenience this action may cause you or your child. However, it is necessary for the protection of children in care. If you have any questions, please contact me at (916) 574-0000.

Sincerely,

Regional Manager

Attachment

**SAMPLE NOTIFICATION LETTER: TSO – RESIDENTIAL**

March 6, 2000

Dear Resident/Family member:

The Department of Social Services, Community Care Licensing Division is responsible for licensing and monitoring residential care facilities. Our goal is to protect the health and safety of elderly who are receiving out of home care. The Department has the authority to immediately close a facility when it has determined that there is an immediate health and safety risk to clients.

The purpose of this letter is to notify you that the Department will serve Smith Care Home at 555 Oak St., Orange Town, California 95000 with a legal document called a Temporary Suspension Order (TSO). This document requires the facility to close on March 7, 2000. The Department took this action after determining that clients in care at this facility are of immediate risk of neglect or abuse, or otherwise in immediate danger.

We are notifying you of this action because the facility records identify you as a relative or other authorized representative for a client in care at Smith Care Home. Enclosed with this notice is a copy of the accusation originally filed against this facility. The accusation lists the conditions at the facility that resulted in our need to take this action.

The urgency of this situation made it impossible for us to provide you with any more advance notice. Our staff attempted to telephone all relatives for whom phone numbers were available. It is our hope that we were able to reach you ahead of time in this way.

Because this action will prohibit the facility from operating after March 7, 2000, enclosed is a listing of other licensed care facilities in the area that you may wish to contact for assistance in relocating yourself or your loved one.

We regret any distress or inconvenience this action may have caused you or your family. If you have any questions or would like additional referral information, please contact me at (916) 574-0000.

Sincerely,

\_\_\_\_\_, Regional Manager

\_\_\_\_\_  
Name of Office

Attachment

## SAMPLE NOTIFICATION LETTER: TSO – RESIDENTIAL (RCFE)

March 6, 2000

Dear Resident/Family member:

The Department of Social Services, Community Care Licensing Division is responsible for licensing and monitoring residential care facilities for the elderly. Our goal is to protect the health and safety of elderly who are receiving out of home care. The Department has the authority to immediately close a facility when it has determined that there is an immediate health and safety risk to clients.

The purpose of this letter is to notify you that the Department will serve TLC Care Home at 415 Elm St., Orange Town, California 95000 with a legal document called a Temporary Suspension Order (TSO). This document requires the facility to close on March 7, 2000. The Department took this action after determining that clients in care at this facility are of immediate risk of neglect or abuse, or otherwise in immediate danger.

We are notifying you of this action because the facility records identify you as a relative or other authorized representative for a client in care at TLC Care Home. Enclosed with this notice is a copy of the accusation originally filed against this facility. The accusation lists the conditions at the facility that resulted in our need to take this action.

The urgency of this situation made it impossible for us to provide you with any more advance notice. Our staff attempted to telephone all relatives for whom phone numbers were available. It is our hope that we were able to reach you ahead of time in this way.

Because this action will prohibit the facility from operating after March 7, 2000, enclosed is a listing of other licensed care facilities in the area that you may wish to contact for assistance in relocating yourself or your loved one.

We regret any distress or inconvenience this action may have caused you or your family. If you have any questions or would like additional referral information, please contact me at (916) 574-0000.

Sincerely,

\_\_\_\_\_, Regional Manager

\_\_\_\_\_  
Name of Office

Attachment

**SAMPLE NOTIFICATION LETTER: UNLICENSED FACILITY**

Dear Resident/Family member:

The Department of Social Services, Community Care Licensing Division is responsible for licensing and monitoring out of home care. Our goal is to protect the health and safety of clients who are receiving child care in another person's home or out of home care. The Department has completed an investigation of Jones Care Home located at 415 Elm St., Orange Town, California 95000 and determined that this facility is operating and providing care to clients without a license. This operation violates sections of the criminal, civil, and administrative laws of California.

We are notifying you of this because we understand you may have a relative or other loved one residing at this facility. The Department has given the care provider, two options:

1. Stop providing care;
2. File an application within 15 days to become licensed.

If the operator of the facility files an application we will process it and make a decision on whether to grant a license to operate as soon as possible. If the operator does not file an application within the 15 day time period, we will be required to seek action through the local District Attorney or the Attorney General's office. It is also possible that even though an application is filed, the Department may not approve it.

If you wish to find a different facility, the Department will provide you with a list of licensed facilities and placement agencies that may be able to assist you in finding a suitable placement. Please contact me at (916) 574-0000 if you wish further assistance.

Sincerely,

\_\_\_\_\_, Regional Manager

\_\_\_\_\_  
Name of Office

## SAMPLE NOTIFICATION LETTER: DECISION AND ORDER

March 6, 2000

Dear Resident/Family member:

On January 2, 2000, the California Department of Social Services Community Care Licensing Division notified you that an accusation was issued against TLC Care Home. The Department began legal action against the facility to protect the health and safety of clients in care. The Department has now received the decision from an Administrative Law Judge that revokes the license of TLC Care Home.

We are notifying you of this decision because facility records identify you as a relative or other authorized representative for a client in care at the facility. The earlier letter included a copy of the accusation originally filed against this facility so you can see the reasons why the Department requested that the facility be closed.

The closure will be effective on March 16, 2000. Please contact me at (916) 574-0000 in order to obtain lists of other licensed facilities in the area or be referred to local placement agencies that may assist you in relocating yourself or your loved one.

Sincerely,

\_\_\_\_\_, Regional Manager

\_\_\_\_\_  
Name of Office



**1-1290 LEGAL DIVISION PROCEDURES FOR TEMPORARY  
SUSPENSION ORDERS AND UNLICENSED OPERATIONS****1-1290**

The Community Care Licensing Division and the Legal Division are separate parts of the team who handle administrative actions that can result in the relocation of clients from licensed, or unlicensed care facilities. What follows are the steps carried out by the Legal Division in cooperation with the Licensing Division in such actions.

**1. TEMPORARY SUSPENSION ORDERS**

The Legal Division Attorney who is assigned a Temporary Suspension Order shall prepare the Accusation, Suspension Order, and all necessary documents consistent with our standard practices. However, the effective date of the Temporary Suspension Order may not be known until the Deputy Director has reviewed the Accusation so the pleading may be routed for approval and review before the effective date is known. Legal Assistants and support staff will assist in the preparation of those materials as necessary under the direction of the attorney. The attorney shall consult with the Licensing Office and Statewide Program Office as is necessary. The attorney shall contact the appropriate Deputy Attorney General to obtain approval and if approved, prepare a circulating memorandum and route the whole package for approval to the Community Care Licensing Deputy Director.

While this process is occurring, the Licensing Office shall prepare a memorandum known as a closure report to the Assistant Program Administrator or Program Administrator or delegate for his/her review and approval. The Assistant Program Administrator or Program Administrator or delegate will forward the closure report to the Deputy Director of the Department for his/her review and for the Deputy Director's notification to the Director and Agency.

During this time, the assigned attorney shall remain available for any questions that may arise throughout the process.

If there is an imminent danger situation, the Department may exercise its discretion to act immediately for the protection of clients. The Legal Division and/or Licensing Office or Statewide Program Office may make that recommendation, but the Director or individual that is designated by the Director, shall have the sole discretion to make the decision.

If the Accusation and Temporary Suspension Order are assigned by the Community Care Licensing Division Deputy Director, then it shall be faxed to the Licensing Office at once.

## 1-1420 SAMPLE IMMEDIATE EXCLUSION ORDERS

1-1420

Certified**ORDER TO INDIVIDUAL OF IMMEDIATE EXCLUSION FROM ALL FACILITIES**

Date:

To: Name of Employee  
Address  
City/State/Zip

As a result of an investigation by the California Department of Social Services, a complaint of \_\_\_\_\_ has been substantiated against you.

The Department has determined that your continued or future contact with clients or presence in any child care center or residential facility licensed by the California Department of Social Services constitutes a threat to the health and safety of the clients in care. Therefore, you must immediately, upon receipt of this notice, remove yourself from any contact with clients and not be physically present in any facility. This action is final unless you are notified otherwise, in writing, by this Licensing Office. **You must also remove yourself from being a board member, executive director or officer of any license.**

If you wish to appeal this decision by the Department, you must do so in writing to:

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Attn: Employee Exclusion Hearing

The appeal must be mailed within 15 days of the date that this letter was served upon or given to you. Your request must include your current mailing address and a copy of this letter. You will receive an acknowledgment of the request from the Department. You must also notify the Department, in writing, at the address listed above of any subsequent change in your mailing address until the hearing process has been completed or terminated.

**1-1420 SAMPLE IMMEDIATE EXCLUSION ORDERS (Continued)****1-1420**

## DEPARTMENT OF SOCIAL SERVICES

744 P Street, M.S. \_\_\_\_\_, Sacramento, CA 95814

**Certified****ORDER TO LICENSEE/FACILITY OF IMMEDIATE EXCLUSION FROM FACILITY**

Date:

To: Licensee  
Facility Name & Number  
Address  
City/State/Zip

As a result of an investigation by the California Department of Social Services, a complaint of \_\_\_\_\_ has been substantiated against your employee, prospective employee, or other person who has contact with clients \_\_\_\_\_.

The Department has determined that the continued or future contact with clients or presence of this person in your facility constitutes a threat to the health and safety of the clients in care. Therefore, the Department orders you to remove [EMPLOYEE NAME] from any contact with clients and not allow this employee to be physically present in the facility. **This person must also remove themselves from being a board member, executive director or officer of any license.** If you fail or refuse to comply with this order, your license to operate a \_\_\_\_\_ may be suspended or revoked under Health and Safety Code Section 1550; community care facility, 1568.082; residential care facility for the chronically ill, 1569.50; residential care facility for the elderly or 1596.885; child day care.

If the above mentioned person wishes to appeal regarding this decision, he/she may appeal in writing by addressing a request to:

\_\_\_\_\_

\_\_\_\_\_

Attn.: Employee Exclusion Hearing

The excluded person's appeal must be mailed within 15 days of the date the Exclusion Notice was served. The excluded person's request must include his or her current mailing address and a copy of the notice. The excluded person will receive an acknowledgement of the request from the Department. The excluded person must also notify the Department in writing, at the address listed above, of any subsequent change in his or her mailing address until the hearing process has been completed or terminated.

**1-1425 SAMPLE ACKNOWLEDGEMENT OF APPEAL****1-1425**

DEPARTMENT OF SOCIAL SERVICES  
744 P Street, M.S. \_\_\_\_\_, Sacramento, CA 95814

**ACKNOWLEDGEMENT OF APPEAL  
OF IMMEDIATE EXCLUSION ORDER**

Date:

To: Name of Excluded Person  
Name of Facility where Formerly Associated  
Excluded Individual's Home Address  
City/State/Zip Code

This office has received your appeal of the Department's action which resulted in your immediate exclusion from facilities licensed by the California Department of Social Services and/or from the clients of those facilities.

You will be receiving further communications from our legal office concerning your appeal.

Remember that you may not have contact with clients or be present in any facility licensed by the California Department of Social Services pending this appeal. You must also remove yourself from being a board member, executive director or officer of any license.

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(Signature)  
Program Administrator

c: Regional Manager or County Equivalent

## 1-1430 CERTIFIED FAMILY HOME ACTIONS

1-1430

## DEPARTMENT OF SOCIAL SERVICES

744 P Street, M.S. \_\_\_\_\_, Sacramento, CA 95814

**Certified****ORDER TO DENY/REVOKE CERTIFICATE OF APPROVAL**

Date:

To: Foster Family Agency Licensee  
Address  
City/State/Zip

Subject: Certified Family Home/Applicant  
Address  
City, State and Zip

As a result of an investigation by the California Department of Social Services concerning \_\_\_\_\_ the Department has determined that the continued or future use of the \_\_\_\_\_ certified family home constitutes a threat to the health and safety of clients in care. Pursuant to Health and Safety Code 1534(b), the Department orders your Foster Family Agency to (deny a) (revoke the) certificate of approval to [CERTIFIED FAMILY HOME NAME] to operate a certified family home. If children have been placed in the home, they must be removed and any affected placement agencies must be informed of this order.

If you fail or refuse to comply with this order, your license to operate a Foster Family Agency may be revoked under Health and Safety Code Section 1534(b)(9).

If the above mentioned individual(s) wishes to appeal this decision by the Department, they may do so in writing by addressing a request to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attn: Certified Home Action

**1-1600 SUBPOENAS****1-1600**

A subpoena is a written order usually commanding a person to appear at a particular time and place. A subpoena duces tecum can also be used to obtain copies of medical records or other documents. The subpoena Form (LIC 967) is to be completed by the Licensing Program Analyst who requires the subpoena.

Subpoenas must be personally served upon the person being commanded to appear or provide records or documents. A subpoena is served by the Licensing Program Analyst, Investigator or the Legal Division staff.

**General procedures for service are outlined below:**

1. You will be given an original subpoena and a copy. Give the copy to the person being served; do not give her/him the original. Show the original at the time but do not give it to him/her.
2. The face (front page) of the subpoena will be completed before it is given to you. After you serve the copy of the subpoena, complete the "Proof of Service" on the back of the subpoena.
3. Be sure to ask any persons you approach if they are the named persons. If so, tell them that you have some papers for them and then hand the copy to them.

The person named in the subpoena must be the person actually served. Giving the subpoena to another individual, such as the person's spouse or roommate, when the person is not home, is not sufficient.

4. If the person asks for the original subpoena, tell him/her that the copy is true and contains all the necessary information.
5. If the person refuses to take the subpoena, or closes the door, simply put the subpoena on the floor, on the doorstep, or slide it under the door. These actions complete the service.
6. Remember to not argue with the person.
7. Complete the Proof of Service immediately after serving the person and forward it with the original subpoena directly to the Legal Division as soon as possible.

If there are any complications or questions, contact your Licensing Program Manager or legal consultant.

**1-1810 NEW APPLICANTS (Continued)****1-1810****DEPARTMENT OF SOCIAL SERVICES**

744 P Street, M.S. \_\_\_\_\_, Sacramento, CA 95814

DATE

NAME

ADDRESS

CITY/STATE/ZIP

**NOTIFICATION OF EXPIRATION OF PROVISIONAL LICENSE**

Your provisional license will expire in ten days. The Community Care Licensing Division has not received a release form from the District Attorney's office which identifies you as a probable match being in arrears at least 30 days of unpaid child support. Your provisional license will not be extended.

If you allow your provisional license to expire, you may not continue to operate your facility. Any fees paid will not be refunded. If you allow your provisional license to expire without making arrangements with your District Attorney's office, you will no longer have a valid license to operate a facility.

In accordance with Health and Safety Code Sections 1540, 1569.40, 1568.03, and 1596.80, your continued operation without a license will result in civil and/or criminal action being taken against you.